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IN THE

**United States Court of Appeals**  
**For the Ninth Circuit**

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NO. 21958 ✓

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GILBERT J. SHEFFELS AND ELEANOR SHEFFELS,  
HUSBAND AND WIFE, APPELLANTS

vs.

UNITED STATES OF AMERICA, APPELLEE

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NO. 21958A

---

MARJORIE HEITMAN, APPELLANT

vs.

UNITED STATES OF AMERICA, APPELLEE

---

ON APPEAL FROM THE JUDGMENT OF THE  
UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF WASHINGTON NORTHERN  
DIVISION

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BRIEF FOR THE APPELLANTS

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FRANCIS J. BUTLER  
BUTLER & LUKINS  
725 Lincoln Building  
Spokane, Washington 99201

JOHN E. SNODDY  
1231 Old National Bank Bldg.  
Spokane, Washington

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Gilbert J. Sheffels and Eleanor Sheffels, Husband and Wife,  
*Appellants*

*vs.*

United States of America, *Appellee*

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NO. 21958A

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Marjorie Heitman, *Appellant*

*vs.*

United States of America, *Appellee*

*On Appeal from the Judgment of the United States District  
Court for the Eastern District of Washington  
Northern Division*

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BRIEF FOR THE APPELLANTS

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OPINION BELOW

The District Court's opinion is reported at 264 Fed. Supp. 85. The District Court's Opinion constitutes Findings of Fact and Conclusions of Law.

## **JURISDICTION**

This is a suit for a Refund of Federal Income Taxes, and interest, allegedly over-paid by both Appellants for the taxable year 1961. Both Appellants filed timely claims for refund subsequent to the payment of the tax. In each instance the claims for refund were formally disallowed and timely Complaints were filed in the Federal District Court. Jurisdiction was predicated upon 28 U. S. Code, Section 1346(a).

The cases were consolidated for trial by agreement of the parties (R. 5).

The Opinion of the District Court (264 Fed. Supp. 85) was entered on the 8th day of February, 1967. The Judgments in both cases were entered on March 10, 1967.

The Jurisdiction of this Court is invoked under 28 U.S.C., Section 1291.

## **QUESTION PRESENTED**

Whether expenses incurred by the taxpayer Appellants during the taxable year 1961 in making tours under the auspices of the "People to People" program are deductible for Federal Tax purposes under the provisions of Section 170 of the Internal Revenue Code?

## **STATUTES INVOLVED**

Internal Revenue Code of 1954:

SEC. 170. CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.

[Sec. 170(a)]

## (a) ALLOWANCE OF DEDUCTION. —

(1) GENERAL RULE. — There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary or his delegate.

\* \* \* \* \*

## (c) CHARITABLE CONTRIBUTION DEFINED

— For purposes of this section, the term 'charitable contribution' means a contribution or gift to or for the use of —

(1) A State, a Territory, a possession of the United States, or any political subdivision, of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

\* \* \* \* \*

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## STATEMENT

Both Appellants in this proceeding took trips under the auspices of the "People-to-People" program.

Appellant, Marjorie Heitman, is an unmarried woman and a resident of Spokane, Washington. She timely filed her Federal Income Tax for 1961 and paid the tax shown as due thereon. Subsequent to the filing of the return, the Internal Revenue Service made an assessment of additional tax for the year 1961 in the amount of \$597.50, which included interest. The amount was paid on December 4, 1964.

A claim for refund was timely filed. After the refund was rejected, a Complaint was filed in the Federal District Court seeking a refund in the amount paid.

Appellant, Marjorie Heitman, is a medical doctor actively engaged in the practice of medicine in Spokane, Washington. During the year 1961 she expended \$1,895.00 for travel in connection with a tour of the Orient sponsored by the organization known as the Spokane "People-to-People" Council. This amount was deducted as a charitable contribution on her 1961 Federal Income Tax return. The disallowance of the charitable deduction by the Internal Revenue Service resulted in the assessment of additional tax referred to above for the taxable year 1961 (Pre-Trial Order).

Appellants, Gilbert J. Sheffels and Eleanor Sheffels are husband and wife, who filed a joint timely Federal Income Tax return for the taxable year 1961 and paid the tax shown as due thereon. Subsequent to this, the Internal Revenue Service assessed additional tax and interest, which said

amount was paid by the Appellants who then filed a timely claim for refund of such tax.

Appellant Gilbert Sheffels and his brother Robert Sheffels are engaged in the business of farming. In 1961 the Appellants expended \$4,230.94 in making a tour of the Far-East sponsored by the "People-to-People" Council of Spokane, Washington. The Appellants claimed a charitable contribution deduction of \$4,230.94 on their 1961 Federal Income Tax return. This amount was disallowed by the Internal Revenue Service and resulted in the refund claim referred to above (Pre-Trial Order).

The Local Chapter of the "People-to-People" organization in Spokane, Washington, was headed by Dr. Robert Hunter. The organization was set up partially at the request of the United States Information Agency (R. 14). The program itself was the dream of President Eisenhower in 1956 (R. 15, 60, 183) to build a program of communication between Americans and citizens of other lands in establishing lasting two-way relationships from which international friendship and understanding could grow. The technique was to be direct through "People-to-People" as distinguished from official government contacts (Ex. 1). Dr. Hunter's diligence in the "People-to-People" program resulted in his being nominated to act on the National Board of Trustees (Ex. 11).

The Spokane "People-to-People" Chapter has an office located in Spokane, Washington, which is maintained by volunteer employees (R. 15).

Trips are arranged on the local level. A leader is picked and conversations had with individuals who might be interested in the trip (R. 19). Individuals are invited for reasons connected with their work or activities. The group then undergoes an orientation session. They have briefings by experts in the field, meet together, discuss the countries involved and then undertake the trip. Prior to the tour the group is briefed by the government in Washington, D. C., New York City or San Francisco (R. 20).

In order to be chosen for a tour it is mandatory that the individuals subsequent to the trip maintain their membership in the "People-to-People" organization and participate in its activities. The Appellants in this case followed the above procedures (R. 21, 67, 94, 95).

During the trip the individuals meet what is termed counter-parts in the various countries to further the purposes of the "People-to-People" organization. The trips involved in this proceeding were work trips (R. 67, 94, 95).

Appellant, Marjorie Heitman, is a doctor, and she headed a group of nurses who visited counter-parts in hospitals in the various countries which they visited (R. 62, Ex. 13). Appellant, Sheffels, is concerned with agriculture (R. 91) so his particular tour was an agricultural tour with emphasis on what the people in foreign countries were doing (Ex. 17).

The "People-to-People" organization has many functions in the Spokane area other than tours. For example,

they host local foreign college students in their homes at Christmas and Easter vacation times. In addition, they run seminars on Americanism (R. 22, Ex. 8).

The "People-to-People" tours are established by the Local Chapter. The travel agencies who eventually sponsor the tour do not establish the itinerary. The travel agency helps with primary things such as air schedules, transportation and lodging in the various countries visited. Initially, the travel agency participation was by bid (T. 23).

As to counter-part meeting with members in foreign countries, the United States Information Agency does most of the arrangements with regard to the counter-part meetings and briefings (R. 24, T. 56).

Both Appellants spent sums over and above those claimed as deductions on the Federal Income Tax returns for the taxable year 1961 (R. 81, 99).

The Federal District Court disallowed the claims of both Appellants. (See Opinion).

Prior to the trial the Appellee conceded the only other issue involved in the Sheffel's case. (See Judgment).

Appellants believe that the District Court Opinion was in error.

## SUMMARY OF ARGUMENT

Appellants herein each spent a sum of money in making a tour under the auspices of the "People-to-People" program. The purpose of the program, as instituted by Dwight Eisenhower, was to foster better relationships between Americans and people of foreign countries through a mutual understanding.

Appellants on their 1961 Federal income tax returns deducted part of the tour expenses as a charitable contribution under Section 170 of the Internal Revenue Code. The Internal Revenue Service disallowed the deductions. The Federal District Court agreed—at least in part—with the Government's position.

Appellants assert herein that the Lower Court was in error since the contributions were made to the United States and therefore deductible under the provisions of Section 170 (c) (1) of the Internal Revenue Code.

The Lower Court construed the language of Section 170 (c) (1) too literally. The facts involved in the instant proceeding bring the contributions within the statute and the decision to the contrary should be reversed.

## ARGUMENT

## I

THE EXPENSES INCURRED BY THE TAXPAYER APPELLANTS DURING THE TAXABLE YEAR 1961 IN MAKING TOURS UNDER THE AUSPICES OF THE "PEOPLE-TO-PEOPLE" PROGRAM WERE DEDUCTIBLE FOR FEDERAL TAX PURPOSES UNDER THE PROVISIONS OF SECTION 170 OF THE INTERNAL REVENUE CODE.

In these days when comedians refer to the American embassies as being just a "stones throw away" the factual pattern involved in the instant proceeding is indeed refreshing.

In 1956 President Eisenhower started a program entitled "People-to-People". The idea was to extend a hand of friendship from our people to people in foreign countries (R. 60).

Spokane, Washington, was one of the first four chapters started in the United States. The Spokane chapter has performed impressively with its activities and interests in forwarding the ideas initially set forth as objectives by President Eisenhower (R. 197). The "People-to-People" program admittedly has relieved some functions of the State Department (R. 199).

Appellants went on separate "People-to-People" tours under the auspices of the Spokane chapter and upon their return deducted, as a charitable contribution, the amounts which they spent for transportation. In each instance the

Appellants spent amounts in excess of those deducted on their Federal tax returns (R. 81 and 99).

Section 170 of the Internal Revenue Code entitled "Charitable Contributions and Gifts" allows as a deduction any charitable contribution, payment of which is made within the taxable year to certain defined charitable organizations. Subsection (c) (1) of Section 170 allows a deduction to a state, a territory, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

The District Court, in its Opinion, after reviewing the facts, felt that under the facts in this case the taxpayers were the primary beneficiaries and the purposes of the Government were served only incidentally. In so holding, the District Court judge stated:

"I can see very little difference between the private trips made by the ordinary tourist and those made by the taxpayers here."

Appellants submit that this is erroneous.

The instant case is one of first impression. Appellants submit that the emphasis on the word "exclusively" by the Lower Court is erroneous under the factual pattern set forth herein.

First, the Spokane chapter of the "People-to-People" used a great deal of discretion in picking people for tours. The people who were picked were required to attend meetings prior to the trip and to remain a member of the organization upon their return.

Tour participants were thoroughly briefed locally and by the United States Information Agency prior to their departure. They were told that they would have to work while on the tour and were expected to continue to do so upon their return (R. 67).

While on the tour, exhaustive itineraries were prepared by the United States Information Agency and meetings were arranged with counter-parts throughout the tour. Upon their return the participants were expected to spread the word throughout the community. (R. 75, 98).

Both Appellants in this proceeding following the above schedule. Mr. and Mrs. Sheffels made written reports (R. 156), filed newspaper articles while en route, and made countless speeches upon their return (Ex. 20, R. 98, 155 and 160). Their conduct was certainly in keeping with the overall objective to dispel the "ugly American" image (T. 171).

Dr. Heitman, as the court indicated, was most diligent in an effort to secure information and impart counsel and good will to those whom she met in foreign countries. The District Court Judge felt that ". . . the United States

of America gained materially in stature and good will by her association with doctors and nurses in foreign lands." Upon her return to the United States she made several speeches and at least one trip on behalf of the program (Ex. 22, R. 76).

The term "exclusively for public purposes" as is used in Section 170 (c) (1) should not be strictly adhered to. It is doubtful that any contribution could be made to the United States of America without some entailing benefit to the donor. There seems to be nothing available on what Congress meant in enacting Section 170 (c) (1), but certainly they didn't mean to completely limit contributions which are so publicly beneficial as those concerned in the instant proceeding.

The cases cited in the District Court Opinion do not seem applicable. In *People Ex. rel Lawless v. City of Quincy*, 69 N.E. 2d 892, 395 Ill. 190 (1946), and the *City of Toledo v. Jenkins*, 54 N.E. 2d 656, 143 Ohio St. 141, the "use of property" was involved. This of course is distinguishable from the instant factual situation.

In *Green v. Bookwalter*, 207 F. Supp. 866, 878 (W.D. Mo. 1962), one of the purposes of the commission was to promote a profitable business. Such is not the factual pattern in the instant case.

In *Clark v. C.I.R.*, 158 F.2d 851 (6 Cir. 1946), the Taxpayer had enabled his son to return to his station in mili-

tary service. Again, this case does not apply to the instant factual pattern.

In *Allis-Chalmers Mfg. Co. v. United States*, 200 F. Supp. 91 (E.D. Wis. 1961), the corporation together with other parties had contributed a calculator to a state university with the stipulation that the calculator be made available by the university to the donors for a twenty year period. In denying an immediate deduction for the contribution the court stated as follows:

As used in the statute, the words 'gifts' and 'contributions' contemplate transfers of property without consideration. A reading of the two agreements which we hold to be complementary each to the other, clearly establishes not only the existence of consideration but reveals a painstaking care on the part of all of the parties to the two contracts to provide that the consideration or benefits be distributed in substantial proportion to the contribution made by each individual party. . . . Where as here the benefits received by the Contributing Members are so immediate, tangible and so heavily weighted in their favor, no deduction is allowable under § 23 (q).

In the *Allis-Chalmers Manufacturing Company* case, above, it would appear that the amounts were deductible through depreciation over a period of the twenty years since they were classified as capital expenditures. The case does not seem to control in any way the instant proceeding.

If President Eisenhower himself had personally supervised the Spokane "People-to-People" organization, he couldn't have improved its stature. The Appellants sincerely

made a worthwhile contribution to the United States of America.

If the contributions involved herein are not held to be deductible, the United States has nonetheless been the beneficiary. In recent years there has been an old saying that in most foreign countries today you can always find the United States Embassy by "following the mob".

The Spokane chapter of the "People-to-People", the Appellants, and many like them, are doing what they can to reverse this situation and lighting at least one candle.

The Appellants submit that the District Court interpreted Section 170 (c) (1) too literally and should therefore be reversed.

Respectfully submitted,

FRANCIS J. BUTLER  
BUTLER & LUKINS

725 Lincoln Building  
Spokane, Washington 99201

JOHN SNODDY  
Old National Bank Building  
Spokane, Washington 99201